

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

NEW YORK, NY

TYSONS CORNER, VA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

JAKARTA, INDONESIA

MUMBAI, INDIA

FACSIMILE

(202) 955-9792

www.kelleydrye.com

September 1, 2005

TODD D. DAUBERT

DIRECT LINE (202) 955-9788

E-MAIL: tdaubert@kelleydrye.com

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Dockets Nos. 05-196 and 04-36
Subscriber Notification Report (September 1, 2005)

Dear Ms. Dortch:

XO Communications Services, Inc., by its attorneys and on behalf of itself and its state operating affiliates (collectively "XO"), hereby files the attached "Subscriber Notification Report" in accordance with the requirements set forth in the Federal Communication Commission's Public Notice, *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement*, WC Docket Nos. 04-36 and 05-196, DA 05-2358 (rel. August 26, 2005). Please feel free to contact the undersigned if you have any questions or need additional information.

Sincerely,

Todd D. Daubert,
*Counsel for XO Communications
Services, Inc.*

Attachment

XO Communications Services, Inc.
Subscriber Notification Report (September 1, 2005)
WC Dockets 04-36 and 05-196

XO Communications Services, Inc. submits the following Subscriber Notification Report ("Report") on behalf of itself and its state operating affiliates (collectively "XO"). This Report contains all of the information described in the Federal Communications Commission's Public Notice, *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement*, WC Docket Nos. 04-36 and 05-196, DA 05-2358 (rel. August 26, 2005) ("Public Notice").

Detailed explanation regarding current compliance with the notice and warning sticker requirements.

XO notified and issued warning stickers or labels to 100% of its subscribers by the July 29th, 2005 deadline.

Quantification of the percentage of XO's subscribers that have submitted affirmative acknowledgements as of the date of the September 1 report, and an estimation of the percentage of subscribers from whom XO does not expect to receive an acknowledgement by September 28, 2005.

As of August 31, 2005, approximately 75.5% of subscribers to XO's Fixed VoIP and IP PBX services have submitted their affirmative acknowledgements. XO respectfully submits that it is impossible to give a reliable estimate of the percentage of subscribers from whom it does not expect to receive acknowledgement by September 28, 2005. However, in order to satisfy fully the condition for immunity, XO estimates that between 0% and 20% of our subscribers will not have returned an acknowledgement by September 28, 2005.

Detailed description of any and all actions XO plans to take towards any of its subscribers that do not affirmatively acknowledge having received and understood the advisory.

In order to follow-up with subscribers who have not yet acknowledged receipt and understanding of the Advisory, XO has sent a series of three e-mails directing subscribers to submit their Affirmative Acknowledgement using the web links listed above. A bill message reminder directed to all subscribers, which was attached as Appendix D to XO's August 10 Report, also ran on August bills. XO personnel began contacting subscribers that had not responded to the series of e-mails in mid-August. To the extent required by the FCC, XO will suspend service to any subscriber who fails to submit an Affirmative Acknowledgement on or before September 29th.

XO will continue to make efforts to obtain every subscriber's acknowledgement by September 28, 2005 and may employ additional methods depending on the

effectiveness of the email series, call campaign and the August bill message. Future methods may involve personal visits from XO personnel.

All future communications with existing subscribers seeking acknowledgement of receipt and understanding of the Advisory will include a warning that "The FCC expects us to discontinue your VoIP service by September 29th unless we obtain acknowledgment or receipt and understanding of this Advisory from you." XO hopes to avoid disconnecting subscribers, but in light of the FCC's apparent expectation that we do so, we will prepare for that possibility in as responsible a manner as possible given the timeframe.

Detailed description of any and all plans to use a "soft" or "warm" disconnect (or similar) procedure for subscribers that fail to provide an affirmative acknowledgment by September 28, 2005.

XO currently is determining the technical, operational and financial feasibility of implementing a "soft" or "warm" disconnect (or similar) procedure for subscribers that fail to provide an affirmative acknowledgement by September 28, 2005.